

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 24, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:08OD-101

OAHU

Reconsideration of Rent of All Maunalaha General Lease (GL) Nos. S-4884 to 4913
(GL4895 was cancelled) for Residential Purposes, Maunalaha Homesites, Makiki, Honolulu,
Oahu, Tax Map Key: (1) 2-5-24.

APPLICANT:

Maunalaha Valley Community Association (MVCA) for the leases of Maunalaha Valley.

LEGAL REFERENCE:

Act 225, Session Laws of Hawaii 1981.

LOCATION:

Portion of Government lands of Makiki and Tantalus situated at Honolulu, Oahu, identified by Tax
Map Key: (1) 2-5-24, as shown on the attached map labeled Exhibit A.

AREA:

18.77 acres, more or less.

ZONING:

State Land Use District:	Conservation
City and County of Honolulu CZO:	P-1, Restricted Preservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____ NO x

CHARACTER OF USE:

Residential purposes as the lessee's principle domicile.

LEASE TERM:

Sixty-five (65) years, commencing on December 1, 1983 and expiring on November 30, 2048.

ANNUAL RENT:

\$120.00 for the time period December 1, 1983 to November 30, 2008.

RENTAL REOPENINGS:

At the 25th and 45th years of the lease term. Pursuant to pages 2 and 3 of the subject lease, "The rental for any ensuing period shall be established by negotiations between the Department of Land and Natural Resources and the Maunalaha Valley Community Association or any other subsequent organization representing eligible lessees under Act 225 of the Session Laws of Hawaii, 1981 (see Exhibit B), subject to approval by the Board. Renegotiated rents shall be consistent with the legislative intent and purposes of said Act 225 and, as such, shall be established without comparison to the assessed fair market rental value of the leased properties or any neighboring properties at the time of the negotiations. If no agreement on the annual rent is reached within two months after negotiations have commenced, the matter shall be submitted to binding arbitration in accordance with Chapter 658, Hawaii Revised Statutes, each party to bear its own costs and expenses."

DCCA VERIFICATION:

Not required of individuals.

REMARKS:

The current rental period expires on November 30, 2008 and a rent needs to be established for the reopening period commencing December 1, 2008. The MVCA began negotiations with the Land Division staff and Administrator in the fall of 2007 when Land Division wrote to MVCA (see Exhibit C) regarding scheduling a meeting to begin the negotiation process. MVCA responded with follow up correspondence. Representatives of the MVCA met twice with Land Division staff to inquire as to the process in which the rental negotiations would take place. This is the first reopening since the inception of the leases and therefore they did not know what to expect. The first meeting took place on January 29, 2008 and a subsequent meeting on March 11, 2008 both at Land Division offices. Present at these meetings were the Land Division Administrator Morris Atta, Cyrus Chen the Appraisal Manager, and representatives of the MVCA including Hennessey Brown, President of MVCA and his wife, Joyce Brown, and Coco Needham, ex President of MVCA and current Vice President.

The first meeting was a general discussion on how to proceed with negotiating the rent for the next period and what the MVCA may expect from the DLNR regarding these negotiations. Since neither party had participated in such negotiations, it was difficult to map out an exact procedure to commence negotiations. From the outset, staff made it clear that leaving the rent at status quo of \$120 per year is not a realistic option. There was some discussion of an in house rental analysis performed by staff, which derived lease rents based on land value but discounted for the physical conditions and unique characteristics of the subject parcels.

Staff suggested there are two feasible options for rental rates to be charged uniformly to all the leases. The options were (1) \$480 per year which is the current minimum rent for other new leases and permits, or (2) a

rent based on a market return on \$2.50 per square foot land valuation resulting in varying rents amongst the lessees. The land value was discounted from \$10 per sq. ft. based on various factors. In addition the Maunalaha Homesite leases contain restrictions on building improvements, assignments and subletting. The lessees are also not able to mortgage their properties. The area's infrastructure has substandard roads and aging utilities. There is no connection to county sewer, only septic tanks. The power lines are very old and need to be replaced to handle the current energy needs. This option conflicts with a lease clause regarding renegotiation of rent at time of reopening.

ANALYSIS:

MVCA believes setting rents at market would present a hardship for many of the residents, especially the elderly on fixed incomes. They also believe that rent based on the land areas of each parcel, which would result in varying rent for each lease, would create turmoil within the association. The rents, which have been the same for all lessees during this current initial period, may create tension amongst residents due to the inequity of the rents. Furthermore, setting rents based on comparable land value is not allowable due to a clause in the leases that "...shall be established without comparison to the assessed fair market rental value of the leased properties or any neighboring properties at the time of the negotiations."

In consideration of the two proposed options suggested above, staff has provided the following analysis:

- 1) Establishing rent at the minimum rent as set by the Minimum Rent Policy for New Dispositions as approved by the Land Board on May 13, 2005 in agenda item D-19. This policy sets minimum rent at a nominal value of \$40 per month or \$480 per year and can be used a benchmark for non-profit organizations and other groups.
- 2) Rent based on market return on land value conflicts with the lease and appears to conflict with the rental reopening condition as cited in all the Maunalaha leases.

On May 13, 2005, the Land Board established a Minimum Rent Policy that stated, among other things, that the Minimum Rent for New Dispositions shall be \$480 per year for leases. Leases are typically issued via public auction to for profit organizations or directly to non-profits. The subject leases were issued directly as a result of Act 225. Even though the MVCA is not considered a non-profit organization, staff feels that in following in the spirit of Act 225, invoking the minimum rent as stipulated by the Board's policy is fair and equitable to both parties. This option also does not conflict with the lease renegotiation clause, which stipulates rents shall not be established from fair market values or comparisons to neighboring properties.

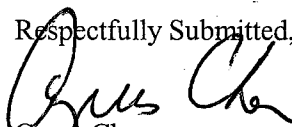
RECOMMENDATION: That the Board

- A. Determine that the lease rent commencing December 1, 2008, under General Lease Nos. S-4884 to 4913, except for cancelled 4895, shall be:

\$480 per year based on the Minimum Rent Policy for New Dispositions, subject to
 1. Review and approval by the Department of the Attorney General; and
 2. Such other terms and conditions as may be prescribed by the Chairperson to best

serve the interests of the State.

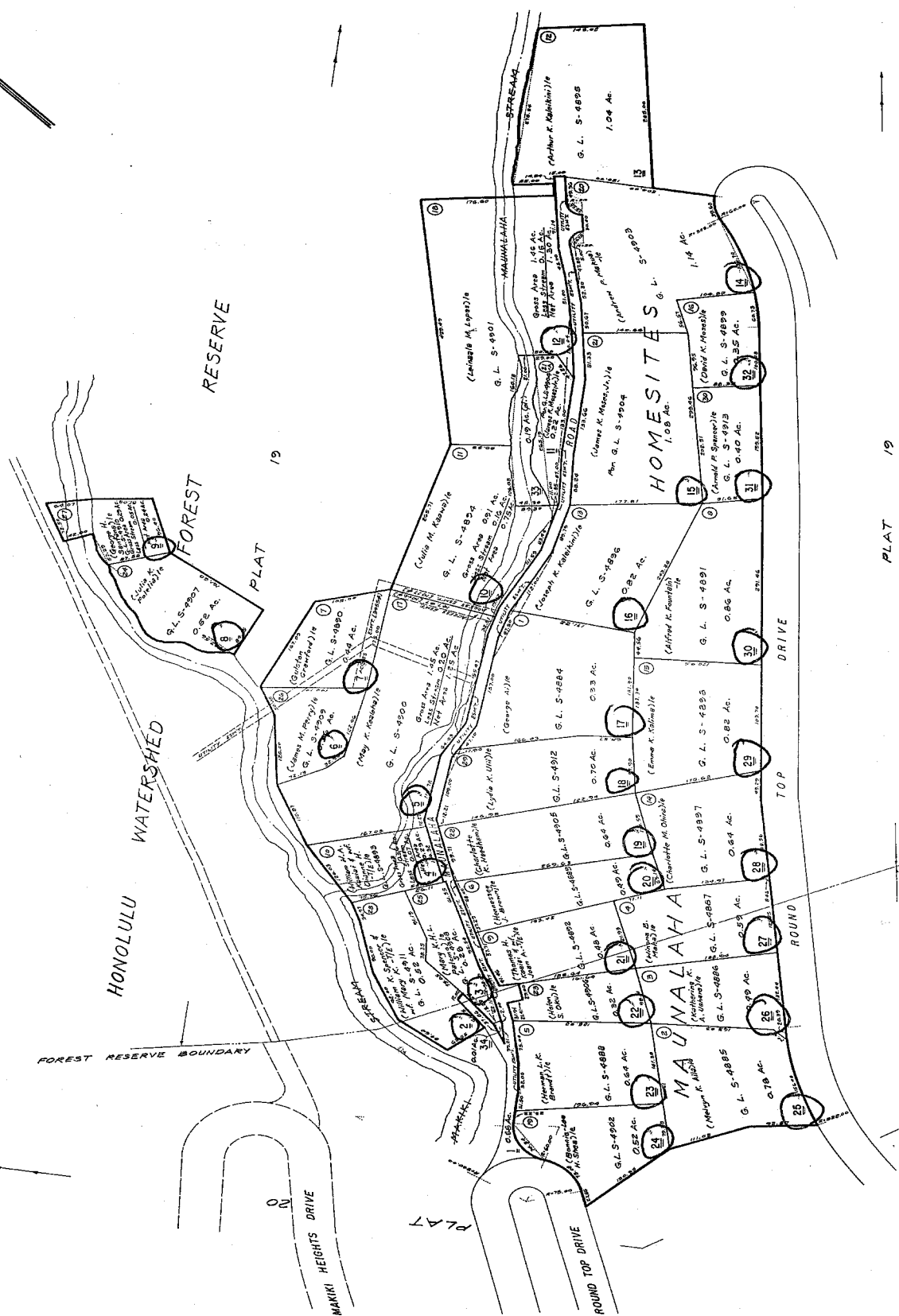
Respectfully Submitted,



Cyrus Chen
Appraisal Manager



Laura H. Thielen, Chairperson



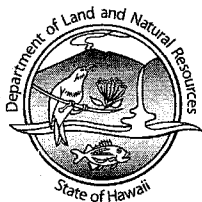
DEPARTMENT OF FINANCE PROPERTY ASSESSMENT DIVISION TAX MAPS SECTION STATE OF HAWAII TAX MAP		
CITY & COUNTY OF HONOLULU		
ZONE	SEC.	PLAT
2	5	24
SCALE: 1" = 80 FT.		

NOTE: All lots owned by the State of Hawaii, unless otherwise noted.

**FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE**

MAKIKI & TANTALUS, OAHU, HAWAII, "MAUNALAHA HOMESITES" (Por. 2-5-19 & 20)

EXHIBIT "A"



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 29, 2007

MEMORANDUM

TO: Laura H. Thielen, Chairperson

THROUGH: Russell Y. Tsuji, Land Division Administrator

FROM: Cyrus C. Chen, Real Estate Appraisal Manager *Cyrus Chen*

SUBJECT: In-House Valuation Recommendation – Rent for Residential Lease Purposes

GL No.: Various (see table)
Applicant: Various (see table)
Location: Maunalaha, Oahu, Hawaii
Land Area: Various (see table)
Tax Map Key: (1) 2-5-24: 2, 3, etal.
Char. of Use: Residential
Effective Date: December 1, 2008

We have been requested to provide annual rent on the properties referenced in Table 1 attached. This rent amount will be included in staff's submittal to the Board for approval and will not be effective unless such approval is received. The residents at Maunalaha Homesites were originally given 65-year residential leases per authority granted by the Legislature of the State of Hawaii in 1983. The rent was fixed at \$120 per annum for the first 25 years of the leases.

The rental reopening date is scheduled for December 1, 2008 for all the State residential leases at Maunalaha Homesites off Round Top Drive. Staff researched conservation land sales on Oahu. Only two comparables were found. Two parcels totaling 83,718 sq. ft. were sold in the upper Manoa area in July 2007, which indicated a land value of \$10.37 per sq. ft. Another indicator was for a 25,254 sq. ft. house lot, which was listed for \$39.40 per square foot on P-1 zoned land.

Due to the slope, topography and potential for flooding of the subdivision, Staff believes the unit value of the subject lots is likely closer to the lower end of the indicated range. Therefore, a benchmark value of \$10 per sq. ft. was concluded. This unit value was applied to

EXHIBIT "B"

the area of each subject lot to derive an estimate of market land value. A residential rate of return of 4% was then utilized to derive annual market rent. See Table 1 attached.

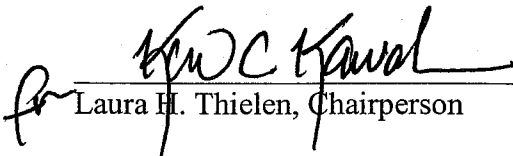
The Maunalaha Homesite leases all contain restrictions on building improvements, assignments, and subletting. The area is also improved with substandard roads and aging infrastructure. There is no connection to county sewer, only septic tanks. According to Hennessey Brown, a representative of the Maunalaha Valley Community Association, the power lines are very old and need to be replaced to handle the current energy needs. Furthermore, the water mains are also old and need replacing. During heavy rains, some areas are prone to flooding, creating streams through parts of the subdivision. Mr. Brown also indicates that retaining walls, which need to be built to secure house foundations and protection from water flow, are expensive to construct. Due to the lease restrictions and poor physical condition of the infrastructure, a negative 75% adjustment was considered reasonable.

Therefore, as of the effective date, the recommended annual rent for the various subject leases is presented on the attached Table 1.

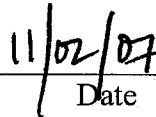
Special Assumptions and Limiting Conditions

- 1) This document does not take the place of an appraisal and does not constitute an appraisal, which adheres to the Uniform Standards of Professional Appraisal Practice.
- 2) The comparable properties were not inspected by the staff appraiser.

Approved/Disapproved:



Laura H. Thielen, Chairperson



Date

cc: District Branch Files
Central Files

Table 1

Maunaloa Residential Leases
Estimate of Annual Rent

No.	GL No.	Lessee	Use	Effective Date	Tax Map Key	Area (acres)	Area (Sq. Ft.)	Est. Land Value/sq. ft.	Est. Land Value	Est. Annual Market Rent	Adjustment	Adjusted Annual Rent
1	4884	Louis Mau Ai	Residential	12/1/2008	(1) 2-5-24: 17	0.93	40,511	\$10	\$405,108	\$16,204	-75%	\$4,051
2	4885	Melvyn & Lynn Aila	Residential	12/1/2008	(1) 2-5-24: 25	0.78	33,977	\$10	\$339,768	\$13,591	-75%	\$3,398
3	4886	Katherine Akana, etal	Residential	12/1/2008	(1) 2-5-24: 26	0.49	21,344	\$10	\$213,444	\$8,538	-75%	\$2,134
4	4887	Winona L. Maka, etal	Residential	12/1/2008	(1) 2-5-24: 27	0.59	25,700	\$10	\$257,004	\$10,280	-75%	\$2,570
5	4888	Herman L.K. Brandt	Residential	12/1/2008	(1) 2-5-24: 23	0.64	27,878	\$10	\$278,784	\$11,151	-75%	\$2,788
6	4889	Hennessey & Mary J. Brown	Residential	12/1/2008	(1) 2-5-24: 20	0.49	21,344	\$10	\$213,444	\$8,538	-75%	\$2,134
7	4890	Millicent U. Crawford	Residential	12/1/2008	(1) 2-5-24: 7	0.44	19,166	\$10	\$191,664	\$7,667	-75%	\$1,917
8	4891	Alfred K Fountain	Residential	12/1/2008	(1) 2-5-24: 30	0.86	37,462	\$10	\$374,616	\$14,985	-75%	\$3,746
9	4892	Thomas & Joan Kaai	Residential	12/1/2008	(1) 2-5-24: 21	0.48	20,909	\$10	\$209,088	\$8,364	-75%	\$2,091
10	4893	William & Dianne Kaai	Residential	12/1/2008	(1) 2-5-24: 4	0.29	12,632	\$10	\$126,324	\$5,053	-75%	\$1,263
11	4894	Jullia Minerva Kaawa	Residential	12/1/2008	(1) 2-5-24: 10	0.75	32,670	\$10	\$326,700	\$13,068	-75%	\$3,267
12	4896	Joseph Kahikilani Kaleikini, Jr.	Residential	12/1/2008	(1) 2-5-24: 16	0.82	35,719	\$10	\$357,192	\$14,288	-75%	\$3,572
13	4897	Soloman & Emma K. Kalima, Jr.	Residential	12/1/2008	(1) 2-5-24: 28	0.64	27,878	\$10	\$278,784	\$11,151	-75%	\$2,788
14	4898	William K. & Stevens Kalima	Residential	12/1/2008	(1) 2-5-24: 29	0.82	35,719	\$10	\$357,192	\$14,288	-75%	\$3,572
15	4899	Ronald K. Lopes	Residential	12/1/2008	(1) 2-5-24: 23	0.35	15,246	\$10	\$152,460	\$6,098	-75%	\$1,525
16	4900	May & D.K. Ortiz Kealooha	Residential	12/1/2008	(1) 2-5-24: 24	1.25	54,450	\$10	\$544,500	\$21,780	-75%	\$5,445
17	4901	Leinala M. Lopes	Residential	12/1/2008	(1) 2-5-24: 12	1.3	56,628	\$10	\$566,280	\$22,651	-75%	\$5,663
18	4902	Bonnie Lee H. Shea Echiberi	Residential	12/1/2008	(1) 2-5-24: 24	0.52	22,651	\$10	\$226,512	\$9,060	-75%	\$2,265
19	4903	Nancy Makua	Residential	12/1/2008	(1) 2-5-24: 14	1.14	49,658	\$10	\$496,584	\$19,863	-75%	\$4,966
20	4904	James K. Moses, Jr.	Residential	12/1/2008	(1) 2-5-24: 11 & 15	1.21	52,708	\$10	\$527,076	\$21,083	-75%	\$5,271
21	4905	Charlotte K. Needham	Residential	12/1/2008	(1) 2-5-24: 19	0.64	27,878	\$10	\$278,784	\$11,151	-75%	\$2,788
22	4906	Dale L. Kaai	Residential	12/1/2008	(1) 2-5-24: 22	0.32	13,939	\$10	\$139,392	\$5,576	-75%	\$1,394
23	4907	Roberta Jean Keinath	Residential	12/1/2008	(1) 2-5-24: 8	0.52	22,651	\$10	\$226,512	\$9,060	-75%	\$2,265
24	4908	Francis Daniel Beirne	Residential	12/1/2008	(1) 2-5-24: 3	0.28	12,197	\$10	\$121,968	\$4,879	-75%	\$1,220
25	4909	Joslyn Mahealani K. Kaawa	Residential	12/1/2008	(1) 2-5-24: 6	0.36	15,682	\$10	\$156,816	\$6,273	-75%	\$1,568
26	4910	Georgina & Alice Santana	Residential	12/1/2008	(1) 2-5-24: 9	0.24	10,454	\$10	\$104,544	\$4,182	-75%	\$1,045
27	4911	Charles Pau Spencer, Sr.	Residential	12/1/2008	(1) 2-5-24: 2	0.52	22,651	\$10	\$226,512	\$9,060	-75%	\$2,265
28	4912	Lydia & J.W. Nahinu Ulii	Residential	12/1/2008	(1) 2-5-24: 18	0.7	30,492	\$10	\$304,920	\$12,197	-75%	\$3,049
29	4913	Arnold & Corinne A. Spencer	Residential	12/1/2008	(1) 2-5-24: 31	0.4	17,424	\$10	\$174,240	\$6,970	-75%	\$1,742